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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,297	08/05/2003	Stephen Eliot Zweig		7968
27052	7590	10/01/2004		
STEPHEN E. ZWEIG 224 VISTA DE SIERRA LOS GATOS, CA 95030			EXAMINER	LA, ANH V
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/634,297	ZWEIG, STEPHEN ELIOT
	<b>Examiner</b>	<b>Art Unit</b>
	Anh V La	2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 1-20 is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. ____ .   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/5/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: ____ .                                   |

**DETAILED ACTION**

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
2. The drawings are objected to because in figures 1 and 8, blank boxes need to be labeled. For example, box 1 should be labeled as - -microprocessor--.
3. Claims 1-20 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

4. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claims 1, 9, and 15 recite the limitation "said computing means" in 9. There is insufficient antecedent basis for this limitation in the claim. The phrase "said computing means" should be changed to - -said computational means--.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5, 7-11, 13-17, and 19-20, as far as definite, are rejected under 35 U.S.C. 102(b) as being anticipated by Soga.

Regarding claim 1, Soga discloses a unitized electronic time-temperature indicator device for rapidly assessing the acceptability of a material's thermal history, the device comprising computational means 14 and temperature measurement means 15a, wherein the device periodically samples the temperature and computes a function of temperature that is continually operative throughout a relevant temperature monitoring range of the device, wherein said function of temperature estimates an impact of time based on a detectable property of the material, and wherein the computational means generates a running sum of said function of temperature over time, the running sum is compared to a reference value, and the result of the comparison is used to generate an output signal 84, 95 to indicate the fitness for use of the material (see abstract, column 12, lines 15-65, col. 13, line 14- col. 14, line 55, col. 15, lines 1-25).

Regarding claim 9, Soga discloses a unitized electronic time-temperature indicator device for rapidly assessing the acceptability of a material's thermal history, the device comprising computational means 14 and temperature measurement means 15a, wherein the device periodically samples the temperature and computes a function of temperature that is continually operative throughout a relevant temperature monitoring range of the device, wherein said function of temperature estimates an impact of time based on a detectable property of the material, and wherein the computational means generates a running sum of said function of temperature over time, the running sum is compared to a reference value, and the result of the comparison is used to generate an visual output signal 84, 95 to indicate the fitness for use of the material (see abstract, column 12, lines 15-65, col. 13, line 14- col. 14, line 55, col. 15, lines 1-25).

Regarding claim 15, Soga discloses a unitized electronic time-temperature indicator device for rapidly assessing the acceptability of a material's thermal history, the device comprising computational means 14 and temperature measurement means 15a, wherein the device periodically samples the temperature and computes a function of temperature that is continually operative throughout a relevant temperature monitoring range of the device, wherein said function of temperature estimates an impact of time based on a detectable property of the material, and wherein the computational means generates a running sum of said function of temperature over time, the running sum is compared to a reference value, the result of the comparison is used to generate an visual output signal 84, 95 to indicate the fitness for use of the

material, and the device comprises means to allow the function of temperature and the reference value to be automatically programmed into an assembled device (see abstract, column 12, lines 15-65, col. 13, line 14- col. 14, line 55, col. 15, lines 1-25).

Regarding claim 2, Soga discloses a visual output signal 84.

Regarding claim 3, Soga discloses a visual output signal 84.

Regarding claim 4, Soga discloses means to enable the function of temperature and the reference value to be automatically programmed into an assembled device (see abstract, col. 12, lines 15-65, col. 13, line 14- col. 14, line 55, col. 15, lines 1-25).

Regarding claims 5, 11 and 17, Soga discloses a microprocessor 14 and power means being an AC power (see figure 2).

Regarding claims 7, 13, and 19, Soga discloses display means conveying information pertaining to a fractional remaining stability lifetime of material that has not yet expired (abstract, col. 12, lines 15-65, col. 13, line 14- col. 14, line 55, col. 15, lines 1-25).

Regarding claims 8, 14, and 20, Soga discloses a material dispensing device in which the time temperature device signals if the material should be dispensed or not depending upon the acceptability of the material's thermal history (abstract, col. 12, lines 15-65, col. 13, line 14- col. 14, line 55, col. 15, lines 1-25).

Regarding claims 10 and 16, Soga discloses the function of temperature and the reference value to be programmed into an assembled device by a replaceable memory chip or electronic data transfer (see figures 1a-2, 7, and 8).

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7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 6, 12 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soga.

Regarding claims 6, 12 and 18, Soga discloses all the claimed subject matter as set forth above in the rejection of claim 1, but does not clearly disclose the function of temperature having a temperature resolution granularity of 10 degrees of C or smaller and a periodicity of sampling having a time resolution granularity of 2 hours or smaller. However, it would have been obvious to have the function of temperature having a temperature resolution granularity of 10 degrees of C or smaller and a periodicity of sampling having a time resolution granularity of 2 hours or smaller since it is not inventive to discover the optimum or workable ranges by routine experimentation.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Singh, Pedoeem, Vidaillac, and Alderman disclose temperature monitoring systems.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh V La whose telephone number is (571) 272-2970. The examiner can normally be reached on Mon-Fri from 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**ANH V. LA  
PRIMARY EXAMINER**

Anh V La  
Primary Examiner  
Art Unit 2636

AI

September 23, 2004